HIGH COURT OF CHHATTISGARH AT BILASPUR

Misc.(Civil)Appeal No.27/2007

Single Bench: **Hon'ble Shri Dilip Raosaheb Deshmukh, J.**

Appellant Plaintiff		Sunderlal Mishra son of late Gayaprasad Mishra aged 55 years R/o village Pandhi Tahsil Masturi District Bilaspur (CG) At present R/o village Bidoura Tahsil Lohara Distt. Kabirdham (CG)
		Versus
Respondents Defendants	1.	Smt. Narmada widow of late Motilal Mishra R/o Singhanpuri Tahsil Lohara via Silhati Distt. Kabirdham At present R/o through Ramkhilawan Mishra cultivator R/o village Jhal near Mungeli Tahsil Mungeli District Bilaspur (CG)
	2.	Ghanshyam Prasad Tiwari aged 36 years son of Khuluram Tiwari R/o Mopka Tahsil & Distt. Bilaspur (CG)
	3.	Ashok Kumar Sharma aged 38 years son of R.K. Sharma R/o Katiya-para Juna Bilaspur Tahsil and Distt. Bilaspur (CG)
	4.	Sanjai Mishra aged 31 years son of Laxmi Prasad Mishra R/o village Pandhi Tahsil Masturi Distt. Bilaspur (CG)
	5.	Balram Rakesh aged 32 years Chandarlal Rakesh Sindhi Hindu businessman R/o Hemoo Nagar Bilaspur (CG)
	6.	Prithvipal Hoora aged 57 years Son of Balvant Singh Hoora Punjabi, businessman resident of Takhatpur District Bilaspur (CG)

Appeal under Order-43 Rule-1 of the C.P.C, 1908

Present:-
Shri Ram kumar Tiwari, counsel for the appellant.

ORAL ORDER

(Passed on 5th July, 2007)

Heard on admission.

2. The appellant is aggrieved by the order dated 10.5.2007 passed by the 3rd Additional District Judge, Bilaspur in civil suit No. 15-A/2007 whereby the application under Order-39 Rule-1 & 2 read with Section 151 of C.P.C filed by the plaintiff for grant of temporary injunction was dismissed.

3. The appellant/plaintiff had filed a suit for specific performance of contract alleging that the defendant No.1 had parted with possession of the suit land at the time of agreement. Learned lower Court has, after appreciation of the material placed before it by the appellant/plaintiff, recorded a finding that the plaintiff's documents i.e. agreements are vague and do not show that possession of the suit land was delivered to the plaintiff. There was thus no *prima-facie* case in favour of the plaintiff. Since the defendant No.1 had already sold and delivered possession of the land to defendant Nos. 2 to 4 for a consideration of Rs.8,04,000/-, the balance of convenience also did not lie in favour of the appellant/plaintiff. It was also observed that considering the fact that the land was actually sold for Rs.8,04,000/- by the defendant No.1, it was highly improbable that she would have agreed to sell the land for a paltry consideration of Rs.70,000/- to the plaintiff. On this premises, the learned Additional District Judge refused to grant temporary injunction in favour of the plaintiff.

4. No such infirmity or illegality is seen in the impugned order so as to justify any interference in appeal. The appeal being devoid of merit is dismissed at the stage of admission.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya